

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LACEY L. RAMIREZ,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:12-cv-01649-SNLJ
)	
THE CITY OF FREDERICKTOWN,)	
MISSOURI,)	
)	
Defendant.)	

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR MORE DEFINITE
STATEMENT**

COMES NOW Defendant The City of Fredericktown, Missouri, by and through its attorneys Andrew J. Martone, Lori A. Schmidt and the law firm of Hesse Martone, and for its Memorandum of Law in Support of Motion for More Definite Statement pursuant to Federal Rule of Civil Procedure 12(e) and Local Rule 7-4.01 states to the Court as follows:

1. Plaintiff Lacey L. Ramirez filed this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, codified at 42 U.S.C. Section 2000(e) *et seq.* asserting that she was subjected to sexual harassment and retaliation by Defendant The City of Fredericktown, Missouri.

2. Plaintiff fails to plead any specific facts indicating how and in what manner she was sexually harassed by the Defendant. Plaintiff refers to a text message sent to her by the Mayor but fails to state the content of the text message and has failed to plead facts that would support a claim of sexual harassment.

3. Furthermore, in Paragraph 4 of her Complaint, Plaintiff fails to plead facts establishing that she satisfied the administrative prerequisites for filing suit under Title VII and

that she is entitled to sue this particular Defendant. Plaintiff has failed to attach a Notice of Suit Rights from the U.S. Equal Employment Opportunity Commission. Instead, Plaintiff pleads the legal conclusion that she “has satisfied the administrative prerequisites to suit under Title VII.”

4. The allegations pled by Plaintiff in her Complaint are vague, overbroad and conclusory.

5. According to Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.”

6. While Federal Rule of Civil Procedure 8(a) does not require a detailed factual allegation, a pleading that offers labels and conclusions is not sufficient. See *John D. Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.*

7. As this Court held in *JoAnne Overton v. Wells Fargo Bank, N.A.*, 2012 U.S. Dist. LEXIS 15364 (E.D. Mo. 2012), allegations are insufficient under Fed. R. Civ. P. 8(a) when “they contain bare bones legal allegations, without any factual support.” *Id.* at 6.

8. In the case at bar, Plaintiff is alleging discrimination due to sexual harassment and retaliation for reporting the sexual harassment. The elements of a sexual harassment claim under Title VII include evidence that Plaintiff was a member of a protected class, evidence that Plaintiff was subjected to unwelcome sexual harassment, that the harassment was based on sex, and that the harassment affected her employment. See *Diana Duncan v. General Motors Corporation*, 300 F.3d 928, 933 (8th Cir. 2002).

9. In addition to her legal conclusion that she has satisfied the administrative prerequisites to file suit against this Defendant under Title VII, Plaintiff fails to plead facts which

would give Defendant notice of the claims against it. Her Complaint is devoid of any allegations of actions against her of a sexual nature.

10. For these reasons, Plaintiff's Complaint fails to meet the pleading requirements of Federal Rule of Civil Procedure 8(a).

Respectfully submitted,

HESSE MARTONE, P.C

By: /s/ Andrew J. Martone

Andrew J. Martone, #37382MO

Lori A. Schmidt, #45561MO

1650 Des Peres Road, Suite 200

St. Louis, MO 63131

(314) 862-0300 – Telephone

(314) 862-7010 – Facsimile

andymartone@hessemartone.com

lorischmidt@hessemartone.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was filed electronically with the United States District Court for the Eastern District of Missouri on this 5th day of October, 2012, with notice of case activity generated and sent electronically to:

Timothy P. Powderly
The Powderly Law Firm, LLC
11965 St. Charles Rock Road
Suite 202
Bridgeton, MO 63044
tim@powderlylaw.com

Attorney for Plaintiff
Lacey L. Ramirez

/s/ Andrew J. Martone